

SOUTH DAKOTA REAL ESTATE COMMISSION
221 West Capitol Avenue, Suite 101
Pierre, SD 57501

SUBDIVISION APPLICATION

SDCL 36-21A-92 (4) defines "Subdivision" or "subdivided land" as "any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C. 1701 and following, as such Act existed on January 1, 1980, or real estate located out of this state which is divided or proposed to be divided into fifty or more lots, parcels or units."

This application shall be accompanied by a **filing fee** of one hundred dollars (**\$100.00**) *plus* twenty-five dollars (**\$25.00**) for each one hundred (100) lots or fraction thereof to be offered for sale.

INSTRUCTIONS

Answer all questions in this form, attach the required documents specified below, and file at the office of the South Dakota Real Estate Commission. Total investigation fee shall be determined depending upon the area and distance subdivision is located from that office.

REQUIRED DOCUMENTS

The application shall contain the following information and supporting documents, together with the attached appointment of the Executive Director as agent for service of process in South Dakota and constitute a part thereof:

1. The name, address and business status of the applicant;
2. If the applicant is a partnership or LLC the names and addresses of the partners;
3. If the applicant is a corporation, the place of incorporation and the names and addresses of its officers and members of its board of directors;
4. The legal description and area of the real estate to be offered for sale, including maps and recorded plats showing the area involved;

5. The name and address of the legal owner of the real estate to be offered for sale;
6. A certified, audited financial statement fully disclosing the current financial condition of the developer;
7. A statement of the condition of the title of the subdivided lands, including encumbrances as of a specified date within thirty days of the application;
8. Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrances, if any, with dates as to recording, along with the documentary evidence that any mortgagee or trustee of a deed of trust has subordinated his interest in the real estate to the interest of a purchaser of the real estate;
9. A true statement of the terms and conditions on which it is intended to dispose of the real estate, together with copies of any contracts intended to be used. The contracts shall contain a provision entitling the purchaser, if he has not seen the land, to an unconditional right to rescind the contract and the unconditional right of refund of all payments made under the contract after inspecting the land if inspection is made within a time provided in the contract which may not be less than four months from the date of the contract and if the demand for refund or rescission of the contract is made within twenty days of the inspection. Any payment made by the purchaser shall be held in trust in a bank located in this state for four months or twenty days after inspection, whichever occurs first, and no portion of the payment may be expended for any purpose before the expiration of the trust period. The rescission period may be waived by the purchaser;
10. A statement of the zoning and other governmental regulations affecting the use of the land to be sold or offered for sale disclosing whether or not such regulations have been satisfied;
11. A copy of an offering statement which sets forth the material facts with respect to the land to be offered or sold.

No application may be approved by the commission unless the subdivider offers satisfactory proof of his ability to provide promised public improvements including water, sewer, gas and streets. Satisfactory proof shall be in the form of performance bonds or other security.

After receiving the application, the commission may require such additional information concerning the real estate as it considers necessary.

FAILURE TO COMPLETELY ANSWER ALL QUESTIONS AND SUBMIT DOCUMENTS PERTAINING TO SUBDIVISION WILL CAUSE DELAY IN REGISTRATION OF SUBDIVISION.

In support of this application, the following statements are made under oath:

1. Name and address of applicant _____

2. If the applicant is a partnership, the names and addresses of the individual members thereof:

3. If the applicant is a corporation, the place of incorporation and the names and addresses of its officers and members of its board of directors.

4. Name of subdivision: _____

5. Location - City and County (Exact location and means of access):

Miles and/or direction from nearest city/town: _____

6. Legal description; subdivision map recorded:

Map number _____ or Book _____ Page _____ Date of Recording

_____ Section(s) _____ Twp _____ Range _____

7. Sizes:

Number of Lots _____ Number of Acres _____

Will parcels or lots be individually staked? _____ (All
corner stakes and radii or otherwise?) Explain.

8. Owner(s) Name _____

Address _____

Telephone _____

If corporation, name and address of officers:

9. (a). Record Title Holders (Name, Address, Telephone):

(b). If corporation, name and address of officers:

10. Conditions of Title:

(a). If there are any Mortgages, Trust Agreements, Leases or other encumbrances against this property, list below (use separate sheet if necessary):

Name of Holder _____

Address _____

Release Clause _____

(b). Type of Improvement District, if any, and the amount:

Streets _____

Sewers _____

Other(s) _____

Combined Total _____

(c). It is agreed that all deposit monies and/or monies received on time or cash sales will be handled in the following manner (explanation as to how deposits are to be handled after sale is consummated and money removed from in-state trust account, viz., Title Companies, Trust Accounts, etc.; exact and in detail). _____

Name and address indicating location of above:

(d). Has there been any change in condition of title since issuance of policy or report? Yes _____ No _____.

If any changes, furnish copies of documents.

11. Who will handle sales:

(a) Name of broker _____

(b) If owner, is owner a licensed broker? _____

(c) Do you understand that sales may be made only by the owner or a person holding a South Dakota real estate license? _____

(d) Do you plan to sell vacant lots, lots improved with homes, or groups of lots to builders? Explain.

(e) List any other trade names, trade styles, or business names including the names of subsidiary companies and promoters used by or related to sales made by the applicant:

12. Name the states in which you have been licensed or registered in any capacity concerning the sale or development of real estate (if none, state "None").

13. Name and address of bank in South Dakota where trust account will be maintained, including account number:

14. Name of signatory on trust account (see No. 9 of "Required Documents" on page 2):

15. Water Supply (see below item No. 11, Page 2):

State whether water supply company will be municipal, public utility, co-op, irrigation district, etc.

Name of Company_____

Address of Company_____

Who will pay the costs of installation of water system?

When will system be installed (Date)_____

What costs, if any, will purchasers have to pay for

installation of service to his house?_____

16. Has certificate of approval from State Health Department for water, sewage and garbage disposal been applied for? Yes _____ No _____

Certificate of approval issue date _____

17. Fire Protection:

What provision is or will be made available for fire protection?

Name of fire department/district, if any?_____

18. Public Utilities:

Name and address of electric company _____

Has electricity been installed to individual lots? If not, projected date?

What costs to purchaser to receive service?_____

Is natural gas available?_____

Telephone service available? _____ Name and address of company?

If not, projected date?_____

Purchaser costs to receive telephone service?_____

19. Sanitation: Public sewers installed?_____

If not, will they be installed (date)?_____

Who will pay sewer installation costs?_____

Who will pay sewer extension to house?_____

Where will tract sewers discharge?_____

If no public sewers, will septic tanks be used?_____

Cost of septic tank borne by purchaser?_____

20. Streets and Roads: Are streets bounding tract public streets? (If not, explain on separate sheet how purchasers will have legal access to the tract).

Are streets within tracts now dedicated?_____ If not, will they be dedicated?_____

Are streets within tracts now surfaced?_____ If not, will they be surfaced, bladed, or graded (asphalt, gravel, dirt)?

Date streets to be completed_____

Who will pay for surfacing, blading, grading?_____

Will there be curbs and sidewalks?_____

Who will maintain streets?_____

21. Public Transportation: State type, location and distance from tract?

22. Public Schools:

Location and distance of Elementary school from farthest tract?

Location and distance of Middle school/Jr. High from
farthest tract?

Location and distance of High School from farthest tract?

School bus available?_____ Cost?_____

Available to Elementary school?_____ Jr. High?_____

High School?_____

23. State distance to nearest community shopping center.

24. Do you understand that any instrument conveying an
interest in any of the above-mentioned real estate shall be
in recordable form and that the instrument may be recorded
in the county where the real estate is located?

25. Do you understand that the South Dakota Real Estate
Commission may thoroughly investigate all matters relating
to this application, and may require a personal inspection
of the real estate by a person or persons designated by it
prior to registration, and that all expenses incurred by
the commission in investigating such real estate and the
proposed sale thereof shall be borne by the
applicant?_____

IMPORTANT

The undersigned hereby agrees to abide by the following
regulations of the Real Estate Commission.

No broker or salesperson may shall in any manner refer to
the South Dakota Real Estate Commission or any member of
employee thereof, in selling, offering for sale, or
advertising, or otherwise promoting the sale, mortgage or
lease of any such real estate, nor make any representation
whatsoever that such real estate has been inspected or
approved or otherwise passed upon by said commission or any
state official, department, or employee.

It is unlawful for any owner, agent or subdivider, after
submitting to the Executive Director the plan under which a
subdivision is to be offered for sale or lease, and

securing registration therefor, to change the plan materially without first notifying the Executive Director in writing of the intended change.

The South Dakota Real Estate Commission must be kept informed as to the names and addresses of all agents representing or negotiating the sale of the subdivision in the state of South Dakota.

STATE OF _____)
) ss.
COUNTY OF _____)

_____, being duly sworn, deposes and says: that the statements herein contained, and the documents submitted are full, true and complete, and that he is the subdivider, or that he is the owner of the subdivision described herein, or will be the owner at the time lots are offered for sale or lease - or that he is the agent authorized by such person to complete this questionnaire.

Owner

By _____

Subscribed and sworn to before me this _____ day of _____ 20____.

Notary Public

My commission expires _____

STATE OF SOUTH DAKOTA

REAL ESTATE COMMISSION

APPOINTMENT OF THE EXECUTIVE DIRECTOR OF THE
SOUTH DAKOTA REAL ESTATE COMMISSION, PIERRE,
SOUTH DAKOTA, AS THE TRUE AND LAWFUL ATTORNEY
FOR THE SERVICE OF PROCESS.

_____, having made
application for registration of an out-of-state subdivision
with the South Dakota Real Estate Commission under the laws
of the State of South Dakota, does by these presents,
pursuant to the provisions of SDCL 36-21A-55 irrevocably
consent to and hereby does constitute and appoint the
EXECUTIVE DIRECTOR of the SOUTH DAKOTA REAL ESTATE
COMMISSION, with address of Pierre, South Dakota, or his
successor in office, as the true and lawful attorney upon
whom the service of any process or pleading authorized by
the laws of this state may be made for any suits and
actions which may be commenced against the party or parties
hereto in the proper court of any county of the State of
South Dakota in which a cause of action may arise or in
which the plaintiff may reside.

It is hereby further stipulated and agreed that such
service of process or pleading shall be taken and held in
all courts to be as valid and binding as if due service had
been made upon the said party or parties hereto in this
state.

This appointment to continue irrevocably in force and
effect as long as any liability of the party or parties
hereto remains outstanding in the state of South Dakota.

Dated this _____ day of _____, 20____.

Corporation

By _____ President

By _____ Secretary

* * * * *

CORPORATE ACKNOWLEDGMENT

State of _____)
County of _____) ss.

On this _____ day of _____, 20____,

before me, _____,

a Notary Public in and for said state and county,

personally appeared _____ and

_____, personally known to me to be the President and Secretary, respectively, of the corporation that is described in and that executed the within instrument and acknowledged to me that they as such officers for and in behalf of such corporation did execute the same.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

(SEAL)

Notary Public

My commission expires _____.